

ESTTA Tracking number: **ESTTA283840**

Filing date: **05/13/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	National Rifle Association of America
Granted to Date of previous extension	05/17/2009
Address	11250 Waples Mill Road Fairfax, VA 22030 UNITED STATES
Attorney information	Jeffrey H. Greger Lowe Hauptman Ham & Berner, LLP 1700 Diagonal Road, Suite 300 Alexandria, VA 22030 UNITED STATES jhgreger@ipfirm.com Phone:703-684-1111

Applicant Information

Application No	77423670	Publication date	11/18/2008
Opposition Filing Date	05/13/2009	Opposition Period Ends	05/17/2009
Applicant	National Restaurant Association 1200 17TH STREET, N.W. Washington, DC 200363097 UNITED STATES		


Goods/Services Affected by Opposition


Class 009. All goods and services in the class are opposed, namely: Pre-recorded media, namely, pre-recorded videos, CD-ROM's and DVD's featuring tests, information, and audio and video in the field of food and beverage service management, food and beverage handling, and food and beverage service
Class 016. All goods and services in the class are opposed, namely: Booklets, manuals, books and magazines featuring tests and information in the field of food and beverage service management, food and beverage handling, and food and beverage service
Class 041. All goods and services in the class are opposed, namely: Electronic publication services, namely, providing on-line services to members featuring abstracts from trade periodicals relating to restaurants and the restaurant industry; Educational services, namely, conducting informal programs, seminars, workshops in the fields of foodservice, hospitality, hotel, motel and restaurant industry, using on-line activities and interactive exhibits, and printable materials distributed therewith; Educational and educational testing services, namely, providing certification seminars and courses and providing related student evaluations in the field of food and beverage service management, food and beverage handling, and food and beverage service

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	530558	Application Date	03/01/1948
Registration Date	09/12/1950	Foreign Priority Date	NONE
Word Mark	NRA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U022 (International Class 028). First use: First Use: 1922/01/01 First Use In Commerce: 1922/01/01 RIFLE AND PISTOL TARGETS		

U.S. Registration No.	1323914	Application Date	07/11/1983
Registration Date	03/05/1985	Foreign Priority Date	NONE
Word Mark	NATIONAL RIFLE ASSOCIATION OF AMERICA MEMBER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 200. First use: First Use: 1983/05/00 First Use In Commerce: 1983/05/00 Indicating Membership in Applicant Organization which Promotes Good Citizenship, Safe and Proper Gun Handling, Markmanship for Sport and National Defense and Recreational Sport		

U.S. Registration No.	1337845	Application Date	07/30/1984
Registration Date	05/28/1985	Foreign Priority Date	NONE
Word Mark	I'M THE NRA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1982/04/01 First Use In Commerce: 1982/04/01 [PROGRAMS CONTAINING SCHEDULES OF EVENTS FOR MEMBERS AND PUBLIC IN ANNUAL MEETINGS AND] DECALS Class 021. First use: First Use: 1984/05/25 First Use In Commerce: 1984/05/25 Mugs Class 025. First use: First Use: 1982/04/01 First Use In Commerce: 1982/04/01 T-Shirts and Caps		

U.S. Registration No.	1885345	Application Date	06/25/1993
Registration Date	03/21/1995	Foreign Priority Date	NONE
Word Mark	NRA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 1871/12/00 First Use In Commerce: 1871/12/00 educational services; namely, conducting courses of instruction on firearm and wild life conservation; and publication services; namely, publishing magazines, text books, manuals, targets, rule books and other books and articles of interest to hunters, collectors, competitive shooters and other gun owners Class 042. First use: First Use: 1871/12/00 First Use In Commerce: 1871/12/00 association services; namely, promoting the interests of owners of firearms, and research services in the field of firearm development and improvement		

Related Proceedings	Cancellations 92/049,563 and 049,556 and Opposition No. 91/184,861
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Attachments	71559418#TMSN.gif (1 page)(bytes) 73434071#TMSN.gif (1 page)(bytes) 670 Opposition.pdf (18 pages)(600419 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/jeffreyhgreger/
Name	Jeffrey H. Greger
Date	05/13/2009

Opposition

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of U.S. Application Serial No. 77/423,670

Mark: **NRA**

Publication Date: November 18, 2008

National Rifle Association of America)	
)	
Opposer,)	
)	
v.)	Opposition No.: _____
)	
National Restaurant Association)	
)	
Applicant)	
)	

OPPOSITION TO APPLICATION

COMES NOW Opposer, National Rifle Association of America, a legal business entity formed under the laws of the State of New York, with a principal place of business located at 11250 Waples Mill Rd., Fairfax, VA 22030, believing that it is being damaged by Application Serial No. 77/423,670 hereby opposes same on the following grounds.

Facts Common to All Counts

1. Opposer is the owner of at least sixty-seven (67) registered trademarks or pending applications of which at least twenty-three (23) United States federal trademark, service mark

Opposition

and member mark registrations cover the mark NRA and formative versions of the mark NRA.

2. Attached as Exhibit 1 is a summary chart of the Opposer's United States Registered Trademarks for the mark NRA and formative versions of NRA including but not limited to U.S. Registration No. 1,885,345 for the typed mark NRA covering association services in the field of firearms, education services in the fields of firearm instruction, wild-life conservation, and publication services. The '345 registration alleges first use of the NRA mark at least as early as 1871. Opposer relies on its trademark registrations as well as its common law rights.

3. The NRA mark has been used by the Opposer since at least as early as 1871 in connection with its association services.

4. In addition to its formally registered marks noted above, Opposer's NRA mark is used under common law in connection with association services including but not limited to services viewable at the Opposer's web site located at www.nra.org which lists services in the fields of firearms and hunting, including clubs and associations, competitive shooting and services therefore, education and training, law enforcement and hunting services, safety programs, museum services, youth and woman's programs, business alliances and opportunities, and political and legislative services related to the Second Amendment to the United States Constitution.

Opposition

5. The Opposer's NRA mark is arbitrary and distinctive.
6. The National Rifle Association ("Opposer") includes a current membership of over three (3) million members, the bulk of which reside in the United States but many of whom reside throughout the world.
7. Opposer's current members include foreign individuals residing throughout the World including Europe, Africa, Asia, Australia, New Zealand, Canada, South and Central America, and the Caribbean.
8. Opposer's NRA mark is known throughout the world due in part to the fame it has established spanning three centuries and due in part to activities including recognition by the United Nations as an official Non-Governmental Organization (NGO) for participation in certain United Nations activities and lectures. The NGO status provided by the United Nations is a limited right provided to only certain well-known and established organizations with a world-wide presence.
9. Since at least as early as 1997 the Opposer has been a founding member of the international sporting association called the World Forum on The Future of Sport Shooting Activities.
10. Opposer has participated in international conferences concerning the issues of gun ownership, shooting sports and participated with foreign governmental authorities providing assistance and services all related to field of firearms.

Opposition

11. Opposer has a current operations budget exceeding two hundred million dollars (\$200,000,000.00) per year.

12. Opposer's operating budget includes for the most part, investments in the NRA's activities which always include promoting use of the NRA brand thereby building the good will associated with the NRA brand which has become famous over the past century for the services associated with the NRA brand.

13. The NRA brand is a well-known brand for services sponsored or affiliated with Opposer including but not limited to core services related to the field of firearms, gun safety and shooting sports, and supporting the Second Amendment rights under the United States Constitution and promoting political freedoms in the U.S. and throughout the world.

14. In addition to its core services, the fame of the NRA brand has been broadened, commercialized and licensed under strict control and authority for ancillary products and services expressly endorsed or approved by the Opposer.

15. The NRA mark has been licensed by Opposer throughout the United States and internationally, and/or is currently licensed for business use on or in connection with: clothing, collectibles, jewelry, footwear, fraternity items, financial services, credit cards, credit protection services, insurance, medical products, motor vehicle buying services, motor vehicles, motor vehicle accessories, flashlights, lighting accessories, firearms, firearm accessories, optics, knives, furniture, telecom services, internet services, auction services,

Opposition

vision products, travel products, books (including cookbooks), educational products, safety products, food products, food preparation products, drink-ware, eating utensils, videos and video games.

16. Many of the above-mentioned items can be viewed and ordered over the internet at one of the Opposer's domain name addresses, namely www.nrastore.com and/or through official authorized licensed vendors and businesses.

17. The Opposer is a non-profit organization and operates with a presence on the internet using the domain name address www.nra.org.

18. In addition to its nra.org web address the Opposer owns over fifty additional NRA-formative domain name addresses which it uses in connection with its official and authorized provision of services and goods.

19. The Opposer's web sites currently receive on average over twenty-four (24) million visits or hits per year and over fifteen (15) million unique users visit the Opposer's web pages which are located at domain name addresses which comprise Opposer's NRA mark.

20. Opposer maintains a publication division promoting NRA brand publications with a current circulation of over 2.75 million subscriptions per month (thirty-three million (33,000,000) NRA-related publications distributed per year).

Opposition

21. The NRA brand has long been promoted by Opposer in the United States in connection with a “Business Alliance” program whereby Opposer’s NRA members many of which are also business owners, obtain benefits including health and other insurance benefits for their businesses and their respective employees.

22. A significant number of the Opposer’s members are employed or affiliated with employment in the foodservice or hospitality industries within and across the United States.

23. The mark NRA when searched on the internet search engine Google, reveals over thirteen million (13,000,000) distinct hits the vast majority of said distinct hits referring to the Opposer, National Rifle Association.

24. The NRA mark has become highly distinctive as a well-known trademark and source indicia of the Opposer in United States commerce.

25. The NRA mark is a famous brand indicating source indicia, sponsorship or affiliation with the National Rifle Association.

26. The fame of Opposer’s NRA mark extends throughout a substantial portion of the United States and extends internationally.

27. The Opposer’s NRA mark became famous long before the Restaurant Association commenced intent-to-use the mark opposed herein. To the extent the Restaurant Association

Opposition

has used the acronym NRA sans the word-mark National Restaurant Association such use of NRA by itself ceased many years ago. The mark NRA by itself does not identify the Restaurant Association but instead is a source indicia of the National Rifle Association.

28. The Opposer's NRA mark became famous and well-known long before and at least prior to the filing date of the applicant's intent to use application opposed herein.

29. The Opposer's NRA mark has been quasi-judicially determined to be a well-known mark in context of international domain name arbitration administrative decision making.

30. The principal meaning of the acronym NRA is the abbreviated name of the National Rifle Association.

31. The Opposer's NRA mark has been famous prior to the advent of the internet.

32. The Opposer has in past commenced business preparations to license its NRA brand in connection with theme restaurants and maintains intent to license its brand in the field of food service.

33. Licensing a famous brand in connection with restaurant services is a logical expansion for the famous NRA brand.

Opposition

34. The Opposer's NRA brand has received intense media attention and numerous articles in the press with an average of over three thousand seven hundred fifty (3,750) news articles per year, each and every year since at least as early as January 2000. Of those articles mentioned in the above sentence, an average of at least one thousand two hundred fifty (1250) news articles per year feature or reference the Opposer's NRA brand without reference to the Opposer's full word name, National Rifle Association when referring to the Opposer.

35. The Opposer's NRA brand has obtained very-wide spread recognition by consumers throughout the entirety of the United States.

COUNT I – LIKELIHOOD OF CONFUSION – 15 U.S.C. §1052(d)

36. All prior allegations are incorporated herein by reference.

37. Upon information and belief, the Applicant, National Restaurant Association, (hereinafter also referred to as "the Restaurant Assoc.") is an association with a business address located at 1200 17th Street, N.W., Washington, DC 20036.

38. The Restaurant Association filed application serial number 77/369,670 for the mark "NRA" on March 17, 2008 seeking coverage for a broad list of goods and services related to the fields of foodservice, hospitality, hotel and motel and restaurant industry generally.

39. The '670 application is not limited to its uses other than the general fields listed in the application. The Opposer has many members in the general fields listed and licenses its NRA

Opposition

mark in connection with goods and services with a nexus to the general fields listed in the application.

40. The '670 application is not limited to uses only in contiguous fashion or in close proximity to the Applicant's full name.

41. On information and belief that consumers are likely to be confused that services offered in connection with the mark as appears in the '670 application are authorized, sponsored or affiliated by the Opposer National Rifle Association, when no such authorization or affiliation exists.

42. If use of the mark as appears in the '670 application commences in use by Applicant in commerce, consumers are likely to be confused as to source, sponsorship and/or affiliation with the Opposer.

43. Opposer's association services have for a long time included services in connection with providing businesses and business owners programs general business services including educational, testing, insurance, and financial services in addition to core association services and activities of the Opposer in the fields of fire arms, hunting and conservation, and legislative and political active pertaining to the Second Amendment to the United States Constitution.

Opposition

44. If the '670 application is permitted to mature to registration, the existence of the registration on the Principal Register of the USPTO will provide the Applicant with *prima facie* evidence of the exclusive rights to use the mark "NRA" despite Applicant not being the primary source or indicia of the brand associated with the mark.

45. Registration of the mark NRA as appears in the '670 application will cause confusion in the market and harms the good will established with respect to Opposer's famous NRA mark.

COUNT II – LIKELIHOOD OF DILUTION – 15 U.S.C. §1125(c)

46. All prior allegations are incorporated herein by reference.

47. On information and belief Applicant the National Restaurant Association uses the acronym NRA in connection with its association services but prior uses of the NRA acronym by the Restaurant Association has consistently been in contiguous relationship or within significantly close proximity to the spelled-out word mark National Restaurant Association whereby consumers may distinguish and recognize the acronym as the initials of the National Restaurant Association.

48. On information and belief the National Restaurant Association commenced use of the mark NRA as a stand-alone acronym but such use was abandoned or ceased many years ago and prior to the time that Opposer's mark became famous.

49. On information and belief the National Restaurant Association took deliberate steps to avoid confusion with the Opposer by changing its prior uses of NRA to include the name of the National Restaurant Association spelled out in contiguous fashion or close proximity.

Opposition

50. On information and belief the National Restaurant Association has changed its position and now is attempting to renew uses of the acronym NRA sans a contiguous relationship or close relationship to the name National Restaurant Association spelled out.

51. The Restaurant Association has recently commenced on a campaign seeking to register the mark NRA on the Trademark Register of the USPTO without any contiguous relationship to the Applicant's full name spelled out and thereby establish exclusive rights to use the acronym NRA sans the mark National Restaurant Association.

52. There exists a powerful consumer association between the NRA mark and the National Rifle Association.

53. On information and belief members of the public familiar with Opposer's National Rifle Associations' NRA brand, when encountering the mark NRA as it appears in the '670 application, sans the Applicant's name, if used in commerce in connection with Applicant's services are likely to conclude that the Opposer, National Rifle Association, sponsored or is otherwise affiliated with the applicant's services where no such sponsorship or affiliation exists.

54. On information and belief members of the public familiar with Opposer's National Rifle Associations' NRA brand, when encountering the mark NRA in connection with Applicant's services and not concluding that Opposer sponsored or is otherwise affiliated with the Applicant's services necessarily would associate the NRA mark less strongly with

Opposition

Opposer thereby causing dilution through blurring and whittling away at the distinctiveness and fame of the Opposer's NRA brand and mark.

Wherefore, Opposer believes that it will be damaged by a registration for the mark as appears in the '670 application and therefore prays that this Opposition be sustained in favor of the Opposer; that judgment be entered against the Applicant; and that the U.S Trademark Application Serial No. 77/423,670 be refused.

Opposer submits the applicable filing fee of \$900.00 with this Petition to cover all three classes opposed.

Respectfully submitted,
LOWE HAUPTMAN HAM & BERNER, LLP

A handwritten signature in black ink, appearing to read 'Jeffrey H. Greger', written in a cursive style.

Jeffrey H. Greger
Attorney for Applicant,

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Alexandria, Virginia 22314
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May 13, 2009


Opposition

Certificate of Service

I hereby certify that a copy of the foregoing OPPOSITION shall be forwarded to Applicant's currently listed correspondence address and contact information according to the current records as contained in the U.S. Patent and Trademark Office records as appears below, by prepaid United States mail on May 14, 2009.






Elisabeth A. Langworthy
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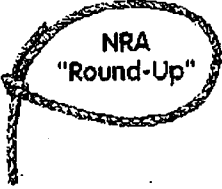
Dated: 5-13-09



Jeffrey H. Greger

FEDERAL TRADEMARK REGISTRATIONS CONTAINING THE MARK NRA
OWNED BY THE NATIONAL RIFLE ASSOCIATION

	Mark	Registration No.	Registration date	Owner	Goods	Current Status
1.		530,558	September 12, 1950	NATIONAL RIFLE ASSOCIATION OF AMERICA	RIFLE AND PISTOL TARGETS in class 22	2001-02-07 - Third renewal 10 year
2.		1,109,511	December 19, 1978	NATIONAL RIFLE ASSOCIATION OF AMERICA	PISTOL AND RIFLE TARGETS in class 28	1999-04-22 - First renewal 10 year
3.		1,323,914	March 5, 1985	NATIONAL RIFLE ASSOCIATION OF AMERICA	Indicating Membership in Applicant Organization which Promotes Good Citizenship, Safe and Proper Gun Handling, Marksmanship for Sport and National Defense and Recreational Sport	2005-07-22 - First renewal 10 year
4.	I'M THE NRA	1,337,845	May 28, 1985	NATIONAL RIFLE ASSOCIATION OF AMERICA	DECALS in class 16;	2006-01-25 - First renewal 10 year
5.		1,612,184	Sept. 4, 1990	NATIONAL RIFLE ASSOCIATION OF AMERICA	TARGETS FOR PISTOL AND RIFLE SHOOTING in class 28	2001-02-21 - First renewal 10 year
6.		1,614,032	Sep. 18, 1990	NATIONAL RIFLE ASSOCIATION OF AMERICA	TARGETS FOR PISTOL AND RIFLE SHOOTING in class 28	2001-03-03 - First renewal 10 year
7.		1,806,543	Nov. 23, 1993	NATIONAL RIFLE ASSOCIATION OF AMERICA	association services; namely, promoting the interests of the	2004-02-11 - First renewal

					NRA/ILA National Endowment for the Protection of the Second Amendment through the solicitation and collection by businesses of monetary contributions in class 42	10 year
8.	NRA	1,885,345	Mar. 21, 1995	NATIONAL RIFLE ASSOCIATION OF AMERICA	educational services; namely, conducting courses of instruction on firearm and wild life conservation; and publication services; namely, publishing magazines, text books, manuals, targets, rule books and other books and articles of interest to hunters, collectors, competitive shooters and other gun owners in class 41; and association services; namely, promoting the interests of owners of firearms, and research services in the field of firearm development and improvement in class 42	2005-05-04 - First renewal 10 year
9.	NRA GREAT AMERICAN HUNTERS TOUR	1,875,619	Jan. 24, 1995	NATIONAL RIFLE ASSOCIATION OF AMERICA	educational and entertainment services; namely, conducting seminars concerning hunting in class 41	2005-09-20 - First renewal 10 year
10.	NRA GREAT AMERICAN WHITETAIL COLLECTION	1,939,923	Dec. 5, 1995	NATIONAL RIFLE ASSOCIATION OF AMERICA	educational and entertainment services, namely providing animal trophy displays for public inspection in class 41	2006-01-31 - First renewal 10 year










11.		1,894,361	May 16, 1995	NATIONAL RIFLE ASSOCIATION OF AMERICA	educational services, namely conducting workshops and seminars relating to instruction of hunting knowledge, skills and safety to beginning and experienced hunters in class 41	2006-05-19 - First renewal 10 year
12.		2,167,737	June 23, 1998	NATIONAL RIFLE ASSOCIATION OF AMERICA	educational and entertainment services, namely, arranging and promoting camp programs for exposing participants to different activities in shooting sports and offering participants opportunity to experience them in a safe, controlled environment in class 41	8 & 15 accepted
13.		2,380,897	August 29, 2000	NATIONAL RIFLE ASSOCIATION OF AMERICA	ASSOCIATION SERVICES; NAMELY PROMOTING PUBLIC AWARENESS OF THE NEED FOR PROTECTION OF THE SECOND AMENDMENT RIGHT TO THE UNITED STATES CONSTITUTION in class 42	8 & 15 accepted
14.		2,590,696	July 9, 2002	NATIONAL RIFLE ASSOCIATION OF AMERICA	association services in the nature of providing charitable services in the fields of youth development in recreational shooting, marksmanship and shooting-sports and conservation efforts in class 42	8 & 15 accepted

EXHIBIT ONE

15.		2,712,533	May 6, 2003	NATIONAL RIFLE ASSOCIATION OF AMERICA	Clothing, namely shirts and hats in class 25; Association services, namely, promoting the interest of marksmanship and individuals in the fields of shooting sports in class 35	8 & 15 accepted
16.		2,600,305	July 30, 2002	NATIONAL RIFLE ASSOCIATION OF AMERICA	association services, namely, promoting the interest and opportunities for women in the field of recreational shooting, marksmanship and hunting-sports in class 42	8 & 15 accepted
17.		2,623,276	Sep. 24, 2002	NATIONAL RIFLE ASSOCIATION OF AMERICA	charitable fund raising for promoting the Second Amendment right to keep and bear arms in class 36; association services, namely, promoting the interest of individuals and their Second Amendment right to keep and bear arms using charitable funds in class 42	8 & 15 accepted
18.		2,524,830	Jan. 1, 2002	NATIONAL RIFLE ASSOCIATION OF AMERICA	charitable fund raising services in class 36	8 & 15 accepted

19.		2,676,405	Jan. 21, 2003	NATIONAL RIFLE ASSOCIATION OF AMERICA	ASSOCIATION SERVICES, NAMELY, PROMOTING THE INTERESTS OF MARKSMANSHIP AND SHOOTING TEAM MEMBERS in class 42	Due for filing by Jan. 29, 2009
20.		2,723,257	June 10, 2003	NATIONAL RIFLE ASSOCIATION OF AMERICA	Magazine in the field of hunting and shooting sports in class 16	8 & 15 accepted
21.		2,581,919	June 18, 2002	NATIONAL RIFLE ASSOCIATION OF AMERICA	Computer mouse pads in class 9; Jewelry in class 19; Clothing, namely, T-shirts and hats in class 25	8 & 15 filed
22.		2,692,907	Mar. 4, 2003	NATIONAL RIFLE ASSOCIATION OF AMERICA	Educational publications, namely, training manuals in the fields of firearm use and safety for law enforcement in class 16 and education and entertainment services, namely providing training services in the fields of firearm use and safety for law enforcement and conducting pistol marksmanship contests in the fields of firearm use and safety for law enforcement in class 41	8 & 15 accepted
23.		2,904,589	Nov. 23, 2004	NATIONAL RIFLE ASSOCIATION OF AMERICA	Magazine publications in the field of firearms in class 16	Nov. 23, 2010 Sec. 8 is due